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April 14, 2004

VIA HAND DELIVERY

Honorable Kim Beals, Esq , Hearing Officer
c/o Sharla Dillon, Docket & Records Manager
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee, 37243-0505

**RE: Petition of Celco Partnership d/b/a Verizon Wireless For Arbitration
Under the Telecommunications Act of 1996
TRA Consolidated Docket # 03-00585**

Dear Hearing Officer Beals

Enclosed please find one (1) original and fourteen (14) copies of the CMRS Providers' Reply in Support of Motion to Exceed Forty (40) Discovery Requests. All parties of record have been served.

If you have any questions or need additional information, please let me know.

Very truly yours,



Melvin J. Malone

MJM/cgb
Enclosures

Honorable Kim Beals, Esq., Hearing Officer
April 14, 2004
Page 2

cc: William T. Ramsey, Esq
Stephen G. Kraskin, Esq
Henry Walker, Esq.
Paul Walters, Jr.
Mark J. Ashby
Suzanne Toller, Esq.
Beth K. Fujimoto, Esq.
Edward Phillips
Charles W. McKee
Elaine Critides
Dan Menser
Marin Fettman
Leon M. Bloomfield

**BEFORE THE
TENNESSEE REGULATORY AUTHORITY**

In Re)	
)	
Petition for Arbitration of Cellco Partnership)	
d/b/a Verizon Wireless)	No. 03-00585
)	
)	
)	

**CMRS PROVIDERS' REPLY IN SUPPORT OF MOTION TO EXCEED FORTY (40)
DISCOVERY REQUESTS**

Petitioners Cellco Partnership d/b/a Verizon Wireless ("Verizon Wireless"), AT&T Wireless PCS, LLC d/b/a AT&T Wireless ("AT&T Wireless"), BellSouth Mobility LLC; BellSouth Personal Communications, LLC, Chattanooga MSA Limited Partnership, collectively d/b/a Cingular Wireless ("Cingular Wireless"), Sprint Spectrum L.P. d/b/a Sprint PCS ("Sprint PCS"), and T-Mobile USA, Inc ("T-Mobile"), collectively referred to herein as the CMRS Providers, hereby reply to the Response in Opposition to Motion Regarding CMRS Providers' First Set of Interrogatories

BACKGROUND

Pursuant to the Procedural Schedule in this matter, on March 19, 2004, the CMRS Providers submitted the *First Set of Interrogatories of the CMRS Providers to Each of the Members of the Rural Coalition of Small LECs and Cooperatives*. Simultaneously with the foregoing, the CMRS Providers submitted a *Motion Regarding CMRS Providers' First Set of Interrogatories* (the "Motion") In this motion, the CMRS Providers requested permission, to the extent necessary, to exceed the Tennessee Regulatory Authority's ("TRA" or "Authority")

prescribed limits. The basis of the Motion is “to reduce administrative burdens on both the parties and the TRA.”¹ On March 26, 2004, the Members of the Rural Coalition of Small LECs and Cooperatives filed their *Response in Opposition to Motion Regarding CMRS Providers’ First Set of Interrogatories*.

ARGUMENTS

As set forth in the Motion, the Authority consolidated the petitions for arbitration filed by the CMRS Providers on December 8, 2003. The petitions for arbitration were consolidated “to reduce administrative burdens on telecommunications carriers and conserve the resources of the TRA.”² Consistent with the consolidation, and to reduce administrative burdens on both the parties and the TRA, the CMRS Providers prepared and submitted discovery requests jointly

On its face, the Authority rule that provides that “No Party” shall serve more than forty (40) discovery requests without leave of the Authority does not appear to contemplate consolidated dockets and/or joint submissions.³ To be sure, each of the CMRS Providers could have, under the Authority’s rules, separately submitted up to forty (40) interrogatories upon each of the Members of the Rural Coalition of Small LECs and Cooperatives (the “Rural Coalition”), resulting in a total of some 200 interrogatories (i.e. 40 interrogatories x 5 CMRS Providers). Though permissible, such an approach would have far exceeded the number of interrogatories jointly propounded by the CMRS Providers and would have been far less efficient from the perspective of the parties and the Authority. For these reasons, the CMRS Providers attempted,

¹ Motion Regarding CMRS Providers’ First Set of Interrogatories, In Re Petition for Arbitration of Cellco Partnership d/b/a Verizon Wireless, TRA Consolidated Docket No. 03-00585, p. 1 (Mar. 19, 2004).

² Amended Order Appointing Hearing Officer, In Re Petition for Arbitration of Cellco Partnership d/b/a Verizon Wireless, TRA Consolidated Docket No. 03-00585, p. 2 (Mar. 24, 2004).

³ See Tenn. Reg. Auth. R. 1220-1-2 11(5)(a).

in good faith, to work in a manner consistent with the consolidation by jointly submitting interrogatories in a number far short of 200.⁴

It may be that the Motion should have been entitled “Motion and Memorandum Regarding CMRS Providers’ First Set of Interrogatories,” as the Motion in fact establishes the grounds in support of the request. Further, it is true that the letter of the agency’s Rules of Practice and Procedure contemplate both a motion and an accompanying memorandum when a party seeks to serve more than forty (40) discovery requests. Yet, the purpose of the foregoing requirement must not be lost in the midst of the objections. According to the agency’s rules, the memorandum should establish “good cause for the service of additional interrogatories or requests for production.”⁵ As previously noted, and contrary to the contention of the Rural Coalition, the Motion did in fact establish good cause for the service of additional interrogatories or requests for production.

Finally, the Rural Coalition objects to the Motion because no specific precedent was cited therein. The “sound precedent” referenced by the CMRS Providers encompassed the agency’s long and common practice of permitting parties in a consolidated docket to exceed prescribed limits on discovery requests when such requests are submitted jointly.

CONCLUSION

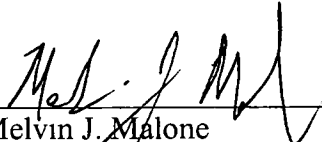
No abuse or harm has been demonstrated. Indeed, the Rural Coalition has in fact already provided responses to the CMRS Providers’ interrogatories. Consistent with their *Motion Regarding CMRS Providers’ First Set of Interrogatories*, the CMRS Providers respectfully

⁴ Whether the interrogatories submitted by the CMRS Providers number 38, 58, or some number in between, there has been no showing that the interrogatories are somehow unnecessary or unduly burdensome

⁵ Tenn Reg Auth R 1220-1-2 11(5)(a)

request the Hearing Officer either to grant their motion as concerning the discovery requests filed simultaneously therewith or to find the opposition moot.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mel. J. Malone", is written over a horizontal line.

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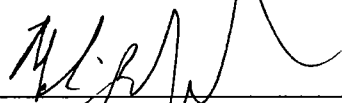
On Behalf of the CMRS Providers

CERTIFICATE OF SERVICE

I hereby certify that on April 14, 2004, a true and correct copy of the foregoing has been served on the parties of record, via the method indicated:

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